

### **REMARKS**

Reconsideration and withdrawal of the rejections of the pending claims are respectfully requested in view of the amendments and remarks herein, which place the application in condition for allowance.

#### **I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 27-36, 38, 47 and 48 were pending in this application. Claim 48 has been withdrawn as allegedly being directed to non-elected subject matter. Applicants reserve the right to pursue the subject matter of the withdrawn claim in future applications. Claim 47 has been canceled in the interest of expediting prosecution. Claim 27 has been amended to recite a peptide comprising the full length sequence Thr-Asn-Pro-Asn-Arg-Arg-Asn-Arg-Thr-Pro-Gln-Met-Leu-Lys-Arg (SEQ ID NO: 3) or a peptide having at least 90% identity to the recited full length sequence and which retains its ability to bind to A $\beta$ , said A $\beta$  having SOD activity, and inhibit A $\beta$ 's SOD and/or copper binding ability. Support may be found, for example, on page 13, lines 15-19 of the specification as originally filed. No new matter has been introduced.

It is respectfully submitted that the claims, herewith and as originally presented, are patentably distinct over the art, and that those claims are and were in full compliance with the requirements of 35 U.S.C. § 112.

The issues raised by the Examiner in the Office Action are addressed below in the order they appear in the prior Action.

#### **VI. THE 35 U.S.C. §112, FIRST PARAGRAPH, REJECTIONS ARE OVERCOME**

Claim 47 was rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The Office Action alleges that there is neither an apparent proper antecedent basis nor conception in context with that described within the specification for the recitation of "a deletion functional variant...which is at least 12 amino acids in length..." (*See* Office Action at page 4).

Although Applicants do not agree with the Office Action, in the interest of expediting prosecution, claim 47 has been canceled, rendering this rejection moot.

Claims 27-36 and 47 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The Office Action contends that

there is no identification of any particular portion of the protein structure that must be conserved, which is required for binding to A $\beta$  or to inhibit SOD activity or copper binding ability, in order to show any minimum correlation between structure and the recited functional language. The Office Action alleges that the Applicants do not reasonably demonstrate possession of “functional variants thereof” or a representative number of the 80% sequence identity genus claimed.

Although Applicants disagree with the Office Action, to advance prosecution, claim 1 has been clarified to recite that the peptide has at least 90% identity to the recited full length sequence and which retains its ability to bind to A $\beta$ , said A $\beta$  having SOD activity, and inhibit A $\beta$ 's SOD and/or copper binding ability.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 112.

**REQUEST FOR INTERVIEW**

If any issue remains as an impediment to further examination and/or allowance, an interview with the is respectfully requested, prior to issuance of any paper other than a Notice of Allowance; and, the Examiner is respectfully requested to contact the undersigned to arrange a mutually convenient time and manner for such an interview.

**CONCLUSION**

In view of the remarks and amendments herewith and those of record, the application is in condition for allowance. Favorable reconsideration of the rejections of the application and prompt issuance of a Notice of Allowance, or an interview at a very early date with a view to placing the application in condition for allowance, are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date.

Respectfully submitted,

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